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Summary record of the 163rd meeting
Held at the Palais des Nations, Geneva, on Thursday, 10 March 2016, at 10 a.m.

Chair: Mr. Decaux

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties to the Convention (*continued*)

Initial report of Kazakhstan (continued) (CED/C/KAZ/1; CED/C/KAZ/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Kazakhstan took places at the Committee table.*

2. **The Chair** invited the country rapporteurs to discuss sections 4 and 5 of the written replies to the list of issues (CED/C/KAZ/Q/1/Add.1).

3. **Mr. Hazan** (Country Rapporteur), noting that the replies to the list of issues indicated that, in the absence of an international treaty, the execution of requests for judicial assistance must be refused if they related to actions that were not criminal offences in Kazakhstan, asked whether the Government would reject such a request if it related to an offence qualified as an enforced disappearance, as such an offence did not exist in the national law. In the list of issues (CED/C/KAZ/Q/1), the Committee had asked whether the State party planned to incorporate an explicit prohibition against the expulsion, return, surrender or extradition of persons who would be at risk of being subjected to enforced disappearance. The Committee had received reports that persons lacking visas or valid documentation were prevented from entering the country at the border and were thus unable to request asylum, notwithstanding the legal provisions that would allow such applications. It had also been reported that the State party, in dealing with such cases, regularly accepted assurances from other States that persons thus forced to leave Kazakhstan would not be subjected to torture or degrading treatment. What legislative or administrative measures had been taken to ensure compliance with article 16 of the Convention, which guaranteed protection for persons in danger of being subjected to enforced disappearance? Did such provisions cover deportation as well as extradition? Did the Government plan to incorporate into the law a specific definition of return, surrender or extradition so as to protect such persons?

4. As the replies to the list of issues referred to the immediate notification of family members when a person was arrested, the delegation should explain the meaning of the word "immediate" and explain how such notification took place in practice. The arrest of a foreign national or stateless person was supposed to be notified to the respective diplomatic or consular office within 24 hours. Was that time limit respected in practice? According to some reports, detained persons were not afforded prompt access to counsel or the opportunity to contact their families.

5. The delegation should explain what persons were held in National Security Committee facilities and military detention barracks and units, and in what conditions. The Committee against Torture had noted that restrictions were imposed on civil society organizations wishing to visit prisons in the context of the national preventive mechanism and that access to some facilities, such as psychiatric institutions and children's homes, was not guaranteed. The replies to the list of issues mentioned the possibility of the legislature adopting a law granting the national preventive mechanism broader access to places of detention. He invited the delegation to describe the bill's provisions and the progress made towards adopting it. He had received reports that the national preventive mechanism had encountered bureaucratic obstacles that prevented urgent or unannounced visits from being conducted. The Committee against Torture and the Human Rights Committee had both referred to lapses and delays in the registration of persons being held in detention, which could point to torture or enforced disappearance. Did all detention facilities keep registers containing all the information required by the Convention under article 17 (3)? According to the State party, detained persons could be held up to 72 hours without a court order.

During that period, who authorized the detention and what safeguards were in place following arrest? The provisions of the Code of Criminal Procedure cited by the State party as guaranteeing the right of habeas corpus were apparently insufficient and not in compliance with the Convention. Did any other provisions ensure specific institutional and legal recourse for the prevention of enforced disappearance?

6. The delegation should explain in more detail the cases in which defendants could or could not renounce their right to counsel and whether there were mechanisms for the automatic appointment of defence lawyers. The Code of Criminal Procedure apparently established that defence counsel could take part in proceedings only upon the request of the accused. Was that provision still in force? In practice, what was the proportion of defendants who had defence lawyers? Lastly, the Government had reported that of the 114 pretrial investigations conducted into deliberate unlawful detention or placement or maintenance of a person in custody in the first nine months of 2015, just 2 had been sent to court; 83 cases had been discontinued and in 17 cases the term for investigation had expired. Why had so few cases gone to court? Was the current framework sufficiently effective at fighting impunity?

7. **Mr. Yakushiji** (Country Rapporteur) asked whether any specific training programmes addressed the Convention and the dialogue with the Committee, and what kind of training programmes were organized for members of the military, police and security forces. How was compensation or reparation provided for the relatives of victims of enforced disappearance or other persons who suffered harm as a result of an enforced disappearance if the fate of the disappeared person remained unclarified? Were family members included in the concept of "injured party"? The State party had indicated that reparation for unlawful arrest, detention or other procedural coercive measures was funded from the State budget. Did that include rehabilitation and reparation for an enforced disappearance perpetrated by non-State actors but with the acquiescence of State agents? The delegation should explain whether victims had to initiate proceedings in order to obtain compensation and whether they had to be officially recognized as injured parties in a criminal procedure in order to obtain compensation or reparation. The Committee would also like to learn how domestic law ensured the right to obtain reparation, including reparation other than compensation for material injury and related costs.

8. He asked about the status of the legislative bill that would establish a victims' compensation fund. Were there any plans to introduce a definition of victim in line with the definition contained in the Convention? What was the legal status of persons who had disappeared and whose fate had still not been clarified? What rights did their relatives have in relation to social welfare benefits, financial matters, family law and property rights? The delegation should describe the criminal law legislation protecting children against wrongful removal and other consequences in cases where the parents were victims of enforced disappearance. Did Kazakh courts have the power to review any adoption or placement of children and to annul such action when they ascertained that it had originated in a case of enforced disappearance?

9. **Mr. Figallo Rivadeneyra** said that the Committee had received information according to which certain persons requesting asylum or subject to extradition had been returned to their country of origin without benefiting from the right to appeal against such measures on the grounds of non-refoulement. The State party apparently considered that such cases could be governed by bilateral treaties or on the basis of reciprocity. A specific and blanket guarantee against non-refoulement was required, allowing no exceptions. He also asked what measures were taken to ensure protection against torture, ill-treatment or disappearance in the event of expulsion of a person to a third country, for example if protection could not be ensured in the person's country of origin.

The meeting was suspended at 10.25 a.m. and resumed at 10.55 a.m.

10. **Ms. Aisina** (Kazakhstan) said that, pursuant to the revisions to the Criminal Code and the Code of Criminal Procedure, the way in which extradition was handled had been updated. Previously, Kazakhstan had carried out extraditions only when an international treaty specifically addressed the question, but since November 2015 it was also possible to do so on the basis of reciprocity, provided that the requesting State had ratified the International Convention for the Protection of All Persons from Enforced Disappearance. Persons suspected of crimes related to enforced disappearance could thus be extradited to States parties to the Convention. The legislature had established additional grounds for denying extradition requests. If there was reason to believe that the requesting State would carry out torture or that the individual's life, health or freedom would be threatened, the Procurator General would deny the request. Extradition would similarly be denied in cases where it would violate an obligation of Kazakhstan under international treaties, including the Convention.

11. Deportation cases were decided in court. If the person in question or counsel claimed that there was a threat of enforced disappearance, a special administrative court had the power to cancel the deportation. In such cases, deportation could be replaced with an alternative penalty such as a fine. The Code of Administrative Offences specifically stated that ratified treaties took precedence over the provisions of the Code; the provisions of ratified treaties were in general considered to take precedence over national law. A presidential decree issued in 2013 had established the framework for the granting of political asylum to foreign nationals and stateless persons and their families; such persons were given refugee status if they faced persecution or a real threat thereof for their political activity or on the grounds of their race, ethnicity or religion, or if they were victims of human rights violations covered by an international treaty. In practice, the applicant submitted his or her case before a committee of the Ministry of Foreign Affairs, which forwarded the file to the Office of the President for a decision on the granting of political asylum. Persons being persecuted in another country for actions that were offences under Kazakh law or that ran counter to the principles and aims of the United Nations were not eligible for asylum. Kazakhstan took all possible steps to comply with the recommendations of United Nations bodies. In a recent case, the Human Rights Committee had found that Kazakhstan had violated the rights of Timur Ilyasov, a foreign national who resided in Kazakhstan and had been suspected of terrorism and extremist acts in the Russian Federation, by denying him re-entry into Kazakhstan. Notwithstanding the potential danger that Mr. Ilyasov represented for national security, the State party had complied with the recommendations issued by the treaty body on the grounds of family reunification.

12. **Ms. Ospanova** (Kazakhstan) said that all the measures taken by Kazakhstan in the context of recent reforms were aimed at creating an atmosphere of zero tolerance for torture. The establishment of the national preventive mechanism in 2013 had been an important achievement in that direction. Through the mechanism, visits were currently being conducted to all the places of deprivation of liberty mentioned in paragraph 97 of the replies to the list of issues. The persons held at facilities of the National Security Committee were persons accused or suspected of offences against the interests of the State or State security; those held at military barracks were servicemen who were subject to disciplinary or administrative penalties.

13. In 2014 and 2015, members of the national preventive mechanism had respectively visited 25 and 33 psychiatric institutions. The mechanism had faced no obstacles to access at such establishments. The mechanism carried out three kinds of visits (periodical, intermediary and special) and all visits were unannounced. The special visits were conducted, on an urgent basis, in response to reports of torture and were coordinated with the Human Rights Commissioner. Both by law and in practice, no time constraints were

imposed on such visits: they could take place at any time of the day or night, on any day of the week and on holidays.

14. Pursuant to the recommendations issued by the Committee against Torture, the mandate of the mechanism had been extended to allow it to conduct visits to police stations. In 2015, 30 such visits had been conducted. The Parliament was currently considering the addition of new categories to the list of institutions and facilities that could be visited, for example children's homes and social welfare institutions. The mechanism had been quite effective. The number of reports of violent treatment of inmates registered during the mechanism's regular visits had dropped to zero. In 2015, special visits had been conducted in response to reports of ill-treatment or the use of force; after two such visits, the case files had been transferred to the procurator's office for prosecution. However, it should be borne in mind that the mechanism was fundamentally preventive, not investigative, in nature.

15. **Mr. Bazylbekov** (Kazakhstan) said that, under national law, all persons deprived of their liberty were entitled to inform their relatives of their detention and whereabouts. As soon as a person was taken into custody, the procurator's office and judge were informed. The official carrying out the initial investigation was required by law to notify the person's family of the detention and the person's whereabouts or to give the person the opportunity to do so. When a foreign national was taken into custody, the diplomatic or consular officials representing that person's interests were notified immediately or, in extreme cases, within 24 hours. In cases where a person was sentenced to serve time in prison, the prison administration was required, under the Code of Criminal Procedure, to report the transfer and whereabouts to the person's family immediately upon the order of the transfer and again within two days following the transfer. The intentional failure to inform family members, refusal to provide such information to persons entitled to receive it and falsification of such information were all criminal offences. The Penal Enforcement Code established that persons deprived of their liberty were entitled to maintain contact with their spouses and other relatives and had the right to receive visits. Convicted prisoners were also entitled, upon oral or written request, to meet with their lawyers with no limitation on the duration of the interviews and full respect for confidentiality. The rights and obligations of foreign nationals and stateless persons were the same as those of Kazakh citizens, unless otherwise stipulated in the Constitution or the law; in addition, they had the right to contact their consular and diplomatic officials or, in the absence of such representation, the international organizations that represented their interests.

16. Special places of detention observed the same principles as other places of deprivation of liberty, in particular the principles of legality, the presumption of innocence, equality before the law, respect for the honour and dignity of the individual and standards of international human rights law. Suspects and accused persons had the right to unlimited and confidential consultation with their counsel and, in the case of foreign nationals or stateless persons, the right to receive visits from diplomatic and consular staff if authorized by the procurator's office. No complaints of infringements of those rights had been received.

17. Suspects and accused persons were registered in a database immediately upon admission to any facility operated by the Ministry of Internal Affairs. Prisons maintained general registers containing such data as the prisoner's full name, date of arrival, name of any previous detention facility, place of birth, identification number and sentencing information. Additional information was kept in personal data files for each inmate. No complaints had been received of improper registration.

18. That electronic database was integrated with the databases of other State services, such as those kept by the Office of the Procurator General, the State Statistics Committee and the health and social development agencies. The integration of such information

sources served as a guarantee of accuracy and ensured that no one would be left unaccounted for by the system.

19. The Human Rights Commissioner and the members of the national preventive mechanism had free and unrestricted access to all places of deprivation of liberty. In addition, the Ministry of Internal Affairs and other authorities had concluded memorandums of understanding with dozens of civil society organizations to allow visits to be made by the latter. In 2015 and 2016, over 88 visits had taken place. NGOs worked side by side with governmental agencies in the training of prison staff. Over 5,200 legal literacy training sessions had been held for prison staff. In 2015, five seminars and some 200 upgrading courses had been held on topics such as legal literacy and human rights.

20. The mandate of the public monitoring commissions, which had been established in 2004 as an oversight mechanism for the Ministry of Internal Affairs, had been extended to include special temporary detention facilities. For purposes of comparison, the national preventive mechanism had carried out 132 visits to Ministry facilities in 2014 and over 300 in 2015; the public monitoring commissions had conducted 271 visits in 2015, including 30 to special temporary detention facilities.

21. **Mr. Abishev** (Kazakhstan) said that the Constitution provided everyone with the right to information, with the exception of information that was considered to be a State secret. All persons held in custody, as well as their family members and lawyers, thus had the right to freely receive any information relating to their cases. The Constitution also set out that all State bodies, including law enforcement agencies, courts and procurator's offices, were required to provide information on specific individuals if the request came from a lawyer, a duly appointed representative or the person's relatives. The Code of Criminal Procedure, the Criminal Code and the Civil Code all established the right for such persons to receive information on persons who had disappeared. Under the Lawyers Act, lawyers were entitled to have access to any information held by the judiciary or law enforcement agencies concerning the persons that they represented. By law, all requests for information must be responded to within a reasonable time. If the information was readily available, for instance in a database, it was often presented within an hour. The failure of an official to provide such information in a timely manner could lead to criminal and administrative charges.

22. In the case of a disappearance, the property rights of the victim and the victim's family were protected. Generally, an injured party filed a statement with a court noting that the person's whereabouts were unknown, after which the court could recognize the person as missing and order that the person's property, including real property, should pass on to the missing person's heirs. In such cases, the property was protected by the law and was not subject to taxation.

23. The procedure for ratifying an international agreement involved the Government sending a bill drafted by an interministerial team to the Parliament, where both chambers discussed the treaty in question. Once the Parliament approved ratification, the text was sent to the President, for signature, and at the same time to the Constitutional Council, which compared the new treaty's provisions with those of other treaties and domestic legislation with a view to ensuring harmonization. In practice, the provisions of international treaties were directly applicable in Kazakhstan and had the same rank as constitutional provisions.

24. **Mr. Dossanov** (Kazakhstan) said that, under the Code of Criminal Procedure, a person arrested by officers of the Ministry of Internal Affairs must be officially placed in detention or released within three hours. If the person was placed in detention, the official responsible for the pretrial investigation must clearly explain to the detainee his or her rights and provide the person with access to a lawyer within 24 hours. The Code also

established that the detainee must be allowed to contact a lawyer or, if unable to do so, must be offered the services of a lawyer by the body investigating the case. By law, assistance from a lawyer was mandatory in 11 specific cases, including those involving minors, mentally ill persons or persons who did not speak the language of the proceedings. If the detainee was unable to pay for a lawyer, the fees were paid from the State budget.

25. The Code of Criminal Procedure included a provision that mandated the immediate release of any person whose rights were violated during the first 72 hours of detention. In the absence of any grounds for keeping the person in custody, the release could be ordered by either the investigating official or the Office of the Procurator General.

26. Any lawyer participating in a pretrial investigation had full access to all documentation, including any secret documents, required for the defence of the accused.

27. The articles of the Code of Criminal Procedure that set out the concept of "injured party" included the family and relatives of disappeared persons, as they sustained both moral and material damages. If the perpetrator of the crime was identified in the pretrial investigation or during the trial, then material compensation was awarded in accordance with the law. If those responsible for the damage were acting in the service of the State, the reparation was paid from the State budget. The Government was currently drafting a bill that would establish a victims' compensation fund to cover such cases.

28. The fact that a relatively high number of missing person cases had been closed could be explained by the procedure used to register missing persons reports, which was to include such reports in a pretrial register within 24 hours of their submission and initiate an investigation. Given that the vast majority of persons who were reported missing eventually returned home, their cases were then closed. If there was reason to believe that an enforced disappearance had been committed, steps were taken to ascertain whether the missing person had been a victim of enforced disappearance or had left home of his or her own accord. That approach had yielded positive results owing to the fact that prompt action was taken in all cases.

29. **Mr. Zhakupov** (Kazakhstan) said that the Criminal Code defined the concept of "injured party" as any person who had suffered direct moral, physical or material harm. That definition included persons who had been subjected to enforced disappearance and their relatives or persons close to them. Since the definition of "injured party" covered all persons who had suffered harm as a result of a criminal offence, it was not necessary to include in the Criminal Code a specific definition of a victim of enforced disappearance.

30. No limitations were placed on the access of private defence counsel, human rights defenders or relatives acting as defenders to detained suspects for the purpose of providing legal assistance. Lawyers participating in criminal cases involving State interests were given access to State secrets so as to enable them to carry out their work in defending suspects. Regular, mandatory in-service training was provided to law enforcement officers and Ministry of Internal Affairs staff every three years, and included methods of dealing with cases of disappearance and other offences covered by the Convention.

31. A wide range of measures was available to ensure the rights of all children in Kazakhstan, including their protection from enforced disappearance. Such measures were carried out by several dedicated governmental agencies and were provided for in an ample legal framework, which included the Marriage and Family Code. Among other international instruments, Kazakhstan had acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child pornography and child prostitution. The Criminal Code prescribed penalties for child abuse, unlawful removal of a minor abroad, child abduction, unlawfully depriving a child of liberty and child trafficking. There were strict regulations in force for adoption, and violations were characterized as criminal

offences. The national legal framework was thus adequate to protect children in Kazakhstan from the offence of enforced disappearance.

32. Immediate action was taken on any report filed with the police about a missing child: a pretrial investigation was opened and a search to ascertain the child's whereabouts was initiated. Proof that the child had disappeared in the context of a criminal offence was not required in order to open an investigation. Such prompt action helped to guarantee that, in the case of the suspected enforced disappearance of a child, no time would be lost in efforts to bring those responsible to justice.

33. The reason behind the closing of so many investigations into alleged offences by State officials lay in the procedure used for registering them. The procedure allowed for pretrial investigations to be initiated whenever a person believed that he or she was being detained unlawfully, regardless of the circumstances. Thus, a large number of cases were opened, notwithstanding the fact that the prospects for a positive finding were generally slim. All testimony was recorded and an investigation was initiated even if a suspect had been detained only for a few hours, irrespective of whether or not the case could continue. Special procurators were assigned to such cases, and they in turn were monitored by higher-level procurator's offices, thus ensuring impartiality.

34. **Mr. Aripov** (Kazakhstan) said that the Supreme Court had established a council to coordinate all initial and refresher training for judges, which included courses in the application of international law. Such training was imparted by means of regular seminars and round tables, academic conferences and other types of practical exercises. Audio and video links were used to offer training courses to participants unable to attend in person. Moreover, all judges were required to keep abreast of legal practice, including case law at all levels of jurisdiction, which was accessible through a database. Regular evaluations had been conducted of the competence and performance of sitting judges since 2006.

35. **Mr. Abishev** (Kazakhstan), responding to the question whether a victim had to be officially recognized as such in order to be entitled to receive compensation, said that victims in criminal cases were entitled to receive full support and, in particular, social services. For cases where no criminal proceedings were initiated, the victims had the right to compensation from the State in accordance with one of the laws covering the cases in question. The Ministries of Internal Affairs, Labour and Social Protection, and Education and Science had drawn up the criteria for assessing whether or not a person had been subjected to violence, for example as victims of torture, ill-treatment, human trafficking or domestic abuse. There were plans to identify common criteria for providing support to human trafficking victims so that persons recognized as victims prior to court proceedings could have the same access to compensation from the State and to the same range of services as other victims.

36. **Ms. Tulegaliyeva** (Kazakhstan) said that, under recently adopted legislation, special social services and support financed from the State budget were available to all victims who met the prescribed criteria, including victims of violence and human trafficking. The services were provided by local public welfare institutions and NGOs. In 2015, more than 80 NGOs had worked actively to provide such State-funded social services. They identified recipients, accompanied them through the social rehabilitation process, ensured their safety while they were receiving services and maintained their confidentiality. Victims of human trafficking were entitled to a broad array of benefits, including medical, psychological, legal, employment and administrative assistance.

37. **Mr. Hazan** asked whether the State had envisaged eliminating or, at least, limiting the practice described in paragraph 85 of the replies to the list of issues of sending convicted prisoners to serve their sentences at prisons located far from their place of residence. That practice increased prisoners' risk of being subjected to enforced

disappearance and other human rights violations. He would like to know what practical results had been achieved through the reform of the criminal legislation in 2015.

38. In view of the statement in paragraph 150 of the State party's replies that children were eligible for adoption when a sole parent or both parents were missing, he asked whether such children could be placed in the care of relatives or persons close to their parents before being put up for adoption; what safeguards were taken to confirm that their parents were indeed missing; and how long after their parents went missing were children put up for adoption. In cases where the identity of the child's parent or parents was unknown, he wished to know what steps were taken to endeavour to identify the parents before the child was put up for adoption. He invited the delegation to indicate whether it considered the national legislation in that area to be in conformity with the requirements of article 25 of the Convention. He requested clarification of the circumstances in which a court could deprive parents of their parental rights, following which their child could be put up for adoption without their consent.

39. He wished to know whether, in the opinion of the delegation, the penalties prescribed in article 414 of the Kazakh Criminal Code for wilful failure to inform a suspect's relatives of his or her detention and whereabouts were appropriate in the light of the extreme seriousness of the offence of enforced disappearance. He asked what alternatives were available to judges when a security force was excluded from an investigation into an alleged enforced disappearance because one of its members was implicated in the alleged offence and which law provided the basis for such exclusion. He would appreciate an account of how impartiality was ensured from the outset in investigations of human rights violations, particularly in alleged cases of enforced disappearance or torture, as well as in administrative investigations carried out by the Ministry of Internal Affairs. In relation to the asylum case considered and granted by the Human Rights Commissioner, he wished to know what steps were envisaged in order to institutionalize that practice so that it would become a standard policy. Given that it was not compulsory in all cases for accused persons to have access to a lawyer during criminal proceedings, he wished to know what percentage of accused persons did not have access to a lawyer during criminal proceedings.

40. **Mr. Yakushiji** said that he had still not received a reply to his earlier questions concerning training programmes for members of the military, police and security forces and whether victims had to initiate proceedings in order to obtain compensation. He asked whether compensation could be provided under administrative or civil proceedings.

41. **Ms. Makenova** (Kazakhstan) said that measures to protect children from enforced disappearance included the establishment of the Committee for the Protection of Children's Rights, which had been in operation for more than 10 years, and the adoption of the Marriage and Family Code. Moreover, Kazakhstan had signed the Convention on the Rights of the Child, the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and other international instruments intended to protect children's rights and had brought its legislation almost completely into conformity with the international standards they contained.

42. A number of changes had been made to the national adoption process in the past 10 years, and the Marriage and Family Code contained a special section on children's rights. Residents of Kazakhstan were given priority in adoption proceedings. More than 80 per cent of all children who did not live with their parents had been placed in the care of relatives.

43. When the identity of a child's parents was unknown, the child was placed in a State institution or with relatives while law enforcement agencies employed all available means to identify the parents. The Marriage and Family Code prescribed the grounds and

procedure to be used for terminating parental rights, which could be executed only by judicial decision and only as a last resort when the life or the welfare of the child was threatened. In cases where parental rights were terminated, an attempt was made to restore them by working with the parents. The Code provided for the annulment by a judicial authority of any adoption that was identified as having originated in an enforced disappearance.

44. In 2013, Kazakhstan had signed and ratified the Convention on the Civil Aspects of International Child Abduction and in 2014 it had entrusted its Committee for the Protection of Children's Rights with the task of ensuring the implementation of that instrument. In the preceding three years, there had been 20 reports of child abduction, and full investigations had been carried out in each case.

45. **Mr. Bazylbekov** (Kazakhstan) said that, under the Code of Criminal Procedure, convicted persons could be sent to a prison in another region only if their place of residence had no suitable prison facilities or did not offer the appropriate prison regime. For example, there was only one maximum security prison in the country, so convicts whose sentences were to be served in such facilities obviously had no other choice but to be sent to that location. Pursuant to the reform of the country's criminal legislation and the presidential decree on modernization of the prisons system, many changes were taking place, such as the introduction of mixed security facilities, which allowed prisoners who were subject to different security regimes to be placed in the same prison complex.

46. **Mr. Zhakupov** (Kazakhstan) said that, in order to ensure the impartiality of criminal investigations, the agency or unit in which a suspect was employed could not take part in an investigation of that person. Special procurators from the Office of the Procurator General carried out investigations of offences allegedly committed by members of law enforcement agencies. The police or the Ministry of Internal Affairs normally conducted pretrial investigations; however, when necessary to ensure impartiality, there were a number of other agencies that could handle investigations, such as the Economic Crimes and Corruption Agency and the National Security Committee.

47. The criminal penalties prescribed in article 414 of the Criminal Code were consistent with the requirement that they should be appropriate and take into account the seriousness of the offences. They also provided adequate protection to the public and ensured that offenders would not commit further crimes. The commission of the offences set out in article 414 by a law enforcement officer was considered an aggravating circumstance and was taken into account by the court when determining punishment. There was thus no chance that law enforcement officers could be afforded preferential treatment or receive a lighter punishment. An internal affairs department investigated cases of police misconduct, but, in order to avoid conflicts of interest, it was not empowered to conduct criminal investigations of police officers, nor was there any intention of empowering it to do so. The same principle applied to other law enforcement agencies and for the same reasons.

48. In general, defendants had to be provided with a lawyer in all cases in which they had been charged with a serious offence that required pretrial detention. The law provided for the option of refusing legal counsel and conducting one's own defence, but defendants resorted to that option very infrequently. A defendant could also hire a private defence lawyer or designate a close relative to conduct his or her defence.

49. The Ministry of Defence of Kazakhstan operated special academies to train military specialists of the armed forces; training was also received abroad at foreign military academies. The staff of all State institutions, including the military, was required by law to undergo initial and refresher training every 3 to 5 years, depending on the institution.

50. As a rule, an injured party was entitled to receive compensation for material and moral harm. By law, persons who believed that they had suffered material or moral harm were also entitled to receive compensation, irrespective of whether they were recognized as an injured party in a criminal case; they were entitled to bring civil proceedings to seek compensation.

51. Under current legislation, political asylum was granted by presidential decree. Decisions to grant refugee status were made in accordance with criteria established by the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights.

52. **Mr. Abishev** (Kazakhstan) said that training courses in human rights were offered at academies under the Ministry of Defence and the Office of the Procurator General. The Human Rights Commissioner, in cooperation with the local offices of the United Nations Development Programme and the Organization for Security and Cooperation in Europe, organized annual seminars and training sessions in national and international human rights instruments for staff members of the Ministry and other governmental agencies throughout Kazakhstan.

53. **Mr. Yakushiji** said that he wished to thank the delegation for its frank and comprehensive answers to the Committee's questions. The broad range of issues addressed during the interactive dialogue had provided the Committee with a greater understanding of the implementation of the Convention in the State party and the legislative, administrative and judicial measures that were still lacking.

54. **Mr. Hazan** said that he wished to invite the State party to pursue its dialogue with the Committee beyond the receipt and implementation of the Committee's concluding observations. That would allow it to continue making progress in recognizing the human rights of all persons residing in Kazakhstan.

55. **Mr. Zhakupov** (Kazakhstan) said that he wished to thank the Committee for its questions and comments, which would provide useful guidance to his country in ensuring the rights and freedoms of the people of Kazakhstan and in continuing its efforts to build a State based on the rule of law.

56. **The Chair** said that, as one of the first States in its region to ratify the Convention, Kazakhstan was leading the way in demonstrating the universal scope and important preventive role played by the Convention. The two meetings that had been held with the State party at the current session represented only the first stage of the dialogue that the Committee hoped to pursue with the State party.

The meeting rose at 12.55 p.m.